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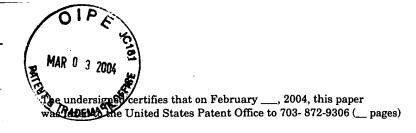
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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Atty Docket No. A01588

In re application of: Chen et al.

Confirmation No. 7008

Serial No.: 10/715,087

Group Art Unit: 524/494

Filed: November 17, 2003

Examiner: Kataryzna Wyrozelski Lee

For: Surfactant-Containing Insulation Binder

Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

Sir:

INFORMATION DISCLOSURE STATEMENT

In accordance with applicant(s)' duty of disclosure under 37 C.F.R. § 1.56(a) and pursuant to 37 C.F.R. §§ 1.97 - 1.98, Applicants submit herewith (1) copies of the documents listed on the enclosed Form, PTO-1449 "List of Art Cited by Applicant" (Exhibit I), (2) a copy of a letter (Exhibit II) between the co-owners of this application that bears on patentability and explains the history behind the filing of this application; and (3) lists of prior art cited in the prosecution of this application's parent collected as Exhibit III..

Some background about our filing this patent application is in order here. The undersigned is a representative of the Rohm and Haas Company. As the Examiner will note, this application is a continuation of U.S. Patent Application Serial No. 09/871,467 filed in the names of Chen, Hinze and Hager ("the Owens Corning inventors"), and assigned to Owens Corning. This application claims virtually identical subject matter as the '467 application. We filed this application to add a co-inventor, Mr. Dobrowolski, who is an employee of Rohm and Haas Company, because Owens Corning refused to name Mr. Dobrowolski as a co-inventor on the '467 application. The history of this begins before Chen's May, 2001 filing date, when Mr.

Dombrowolski originally disclosed much of the subject matter later claimed by the named Owens Corning inventors. Briefly, well prior to Owens Corning filing date, Rohm and Haas disclosed to Owens Corning the benefits of adding a surfactant to Rohm and Haas's own thermoset binder product in an effort to sell binder to Owens Corning for use in fiberglass insulation. These facts can be established by Rohm and Haas documents. The Owens Corning inventors' parent application added certain subsidiary matters set forth in some of the pending claims of both this application and its parent. Needless to say, Rohm and Haas was quite surprised to discover that Owens Corning filed its patent application.

Over the last several years, Rohm and Haas has written to Owens Corning to resolve inventorship and ownership disputes with Owens Corning about these various subject matter,s to no avail. Thus, as explained in our letter to Owens Corning of November 26, 2003 (Exhibit II), we filed this application to preserve whatever rights we have in this technology. Indeed, if the Examiner finds any of the subject matters of this and the '467 application patentable over the art cited and discusssed in that letter and in this Information Disclosure Statement, we plan to take steps to have an interference declared on any jointly invented patentable subject matters.

However, as we concluded shortly after we filed our application, the art probably does not warrant a grant of a patent to either party. As explained in our letter, U.S. Patent No. 6,071, 994 to Hummerich (attached as Exhibit A to our letter) anticipates much, if not all of what both the parties' applications now claim. For convenience, we have included with our letter the claim chart comparing the '467 application claims against Hummerich that we attached as Exhibit B to our November letter.

Also, the undersigned has since learned considerably more about the practice of using mineral oil dust suppression agents in the manufacture of fiberglass insulation. As explained in our letter, we now believe that this type of dust suppression has been a long-standing practice in the fiberglass insulation manufacturing industry to reduce the health hazards associated with airborne fiberglass insulation, as explained in our letter. However, as the Rohm and Haas Company is not a manufacturer of fiberglass (we make, among other things, thermosetting binders used by fiberglass manufacturers), we are not in as good a position to describe how extensive this practice has been as is Owens Corning. Indeed since writing our letter, we have

come to believe that in virtually every commercial fiberglass insulation manufacturing line over the last several decades, mineral oil dust suppression agents have been used.

This apparent long customary industry practice has bearing, among other things, on the relevance of Reck U.S. Patents Nos. 6,099,773 and 6,348,530 as potential Section 102 (as opposed to Section 103) prior art. If the use of dust suppressant agents is as common as we believe (see, e.g., Exhibit C to our letter, U.S. Patent No. 5,108,798 and Owens Corning's own patent filings including U.S. Patents Nos. 4,542,044, 4,909,817 and 5,624,742), we posit that the reader of Reck would read his patent as teaching the practice of what is disclosed by him in the intended environment, namely, with necessary and usual additives such as dust suppressants that most -- if not every – responsible fiberglass manufacturer has to use.¹

In an office action mailed January 7, 2004, the Examiner indeed has recently rejected all the '467 Application "mineral oil" claims except claims 3 and 18, and may have only recently realized that mineral oil dust suppression agents have been commonly used in the manufacture of fiberglass insulation. To the extent that the Examiner needs additional art to confirm that this is indeed the case, we request that the Examiner avail herself of the procedure under 37 C.F.R. § 1.105 and request of Owens Corning an explanation of how long and how extensive mineral oil dust suppression has been in the manufacture of fiberglass insulation.

In related manner, under Rule 105 the Examiner should also require Owens Corning to advise her about the prior commercial practice in relation to '467 application claim 18, which the Examiner has found contains allowable subject matter. Leaving aside Hummerich, which we separately address below in relation to claim 18, all the steps of claim 18 – with the exception of "applying the binder composition of claim 1" – are steps involved in Corning's commercial fiberglass insulation process, which Owens Corning knows is prior, long standing, standard commercial practice used with other its binder compositions, which Chen virtually admits in his specification (see p. 6 third full paragraph). Thus, Reck and Hummerich should be read in light of this long-standing, conventional commercial practice, too. As discussed in our Letter, Hummerich discloses the "binder composition of claim 1." The Examiner should ask Owens

¹ We have found, for example, that oil companies have long marketed oils for the use in the manufacture of fiberglass insulation (see, e.g. the 76 Lubricants Company "Steaval D" brochure attached as Exhibit D). Owens Corning – and its inventors – probably haves a fair amount of similar prior art commercial literature in their files like this one. A full citation of such commercial literature is in order in your prosecution. We suggest you search Owens Corning's files for such relevant information.

Corning about its own long-standing commercial practices in relation to the steps of claim 18. After all, Owens Corning has manufactured about 40% annually of the nation's residential insulation using such a process over a number of years, and is capable of responding to this straightforward request.

To be specific as to Hummerich, he discloses all the elements of claim 18 (the claim and Chen's specification lanugage is quoted and the pertinent parts of Hummerich are summarized or quoted in italics in parentheses):

Claim 18, step 1: "supplying melted class to a fiber forming device" ("fibers for insulating materials are widely produced in industry by spinnning melts of the corresponding mineral raw materials (see for example EP567 480)" Hummerich col 10, lines 30-32; also note that Chen's specification stated that "[I]t is generally well known in the art to produce a porous mat of fibrous glass by fiberizing molten glass . . . " see p. 6, line 16).

Claim 18, step 2: "blowing said melted glass downwardly within a forming chamber of said forming device to attenuate glass fibers" (see EP 567 480 that Hummerich refers to; also note that Chen's specification stated that "It is generally well known in the art to produce a fibrous glass mat on a moving conveyor . . . and are blown downwardly within a forming chamber" see p. 6, lines 19-20).

Claim 18, step 3: "applying the binder composition of claim 1 onto said glass fibers" (please see our claim chart attached to our letter (Exhibit II) where we explain how claim I is anticipated by Hummberich; also see Chen's specification p. 6 where he explains that this step is conventional, p. 6 lines 24-25.).

Claim 18, step 4: "depositing said glass fibers onto a foraminous forming conveyor within said forming chamber" (see *EP 567 480 that Hummerich refers to*; also note that Chen's specification states that this step is conventional, p. 6, lines 23-24).

Claim 18, step 5 "gathering and forming said glass fibers into a mat on said conveyor using a vacuum drawn through said mat from below said forming conveyor, wherein residual heat contained in tsaid glass fibers and said vacuum volatilizes said water" (see EP 567 480 that Hummerich refers to, and note that Hummerich states that "the aqueous binder solution is preferably sprayed onto the freshly prepared fibers while they are still hot. Most of the water evaporates" Hummerich col. 10, lines 33-35. Also note that Chen also stated that this step is conventional, specification p. 6 lines 26-30).

Thus, Hummerich fairly teaches the subject matter of claim 18, particularly in light of what Chen himself admits is conventional. Like the "mineral oil dust suppression agent" that Owens Corning was prepared to be the linch pin of its prior patentability argument even though that agent was standard, conventional industry practice, the features of claim 18 are all standard fiberglass insulation manufacturing industry practices, with the exception of the "binder composition of claim 1" which is clearly disclosed by Hummerich for use in fiberglass insulation.

As we indicated in our letter, we are prepared to abandon our continuation case, if Owens Corning abandons its parent. To date, Owens Corning has refused to agree to our proposal. Should the Examiner still believe there is any subject matters patentable in the pending claims, we ask that an interference be declared so that we can prove that the subject matter of claims 18 - 19, for example, was derived by the Owens Corning inventors from Mr. Dobrowolski or co-invented with him.

Respectfully submitted,

Robert W. Stevenson

Attorney/Agent for Applicant(s)

Registration No. 31064

Telephone No.: 215-592-2171

Rohm and Haas Company 100 Independence Mall West Philadelphia, PA 19106-2399

PATENT

N THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No. A01588

In re: Chen et al.

Confirmation No. 7008

U.S. Serial No. 10/715,087

Art Unit: 1731

Filed: November 17, 2003

Examiner: Kataryzna Wyrozebski

For: Surfactant-Containing Insulation Binder

:

Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

CERTIFICATE OF MAILING

Sir:

I hereby certify that the following Information Disclosure Statement, Form 1449, citing art references and foreign patents or non-patent publications, articles as submitted herein and self-addressed stamped postcard, are being deposited with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date indicated next to my signature below:

March 1, 2004

Date

Therese McKinley

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STATEMENT BY APPLICANT (use as many sheets as necessary)

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Confirmation No.: 7008

Wyrozebski

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Sheet 1 of 1 Attorney Docket Number 0.1508

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Substitute for 107m 1449A/PTO Complete if Known INFORMATION DISCLOSURE **Application Number** - 10/715,087 Filing Date STATEMENT BY APPLICANT 17 2003 First Named Inventor Chen Art Unit (use as many sheets as necessary) Examiner Name Sheet of Attorney Docket Number A01588 Confirmation No.

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